

U.S. Department of Justice



United States Attorney
Southern District of New York

The Silvio J. Mollo Building
One Saint Andrew's Plaza
New York, New York 10007

August 22, 2008

USDS SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: AUG 27 2008

The Honorable Laura Taylor Swain
United States District Judge
Southern District of New York
United States Courthouse
500 Pearl Street
New York, New York 10007
Fax: 212-805-0426

Re: United States v. Bienvenido Rivera, 08 Cr. 776 (LTS)

Dear Judge Swain:

The above referenced Indictment was filed under seal on August 18, 2008. It was unsealed today and assigned to Your Honor. Enclosed please find a copy of the Indictment.

The Government and the defense have agreed that the defendant will voluntarily surrender and be arraigned on the date of the first conference in this case. There was no complaint in this case, and the defendant has not been arrested on these charges. The Government does not anticipate that there will be any bail issues that need to be litigated at the time of the arraignment. The Government does not expect that there will be a trial in this case.

I understand that Your Honor is available for an initial conference and arraignment in this matter on September 11, 2008, at 2:00 p.m.

The Government respectfully requests that time be excluded for purposes of the Speedy Trial Act from today through September 11, 2008, to permit the Government time to produce discovery, for the defense to review that discovery, and to permit the parties to discuss a resolution of the case without trial. The ends of justice served by such a continuance outweigh the best interests of the public and the defendant in a speedy trial. See 18 U.S.C. § 3161(h)(8)(A). The Government has asked defense counsel by e-mail whether the defendant will consent to this application. The Government is confident that he will consent, as the Government and defense counsel have previously discussed and agreed in principle that the defendant would not be

MEMO ENDORSED

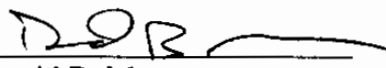
MEMO ENDORSED

arrested, and would instead be permitted to surrender voluntarily and be arraigned at the time of the first conference.

Respectfully submitted,

MICHAEL J. GARCIA
United States Attorney

By:


David B. Massey
Assistant U.S. Attorney
(212) 637-1049

cc: Michael Hurwitz, Esq.
Fax: 212-619-6743

Application GRANTED. The conference is scheduled for 9/11/08 at 2:00pm in Courtroom 176. It is further that pursuant to 18 U.S.C. 3161 (b) (8) (A), the time from 8/22/08 until 9/11/08 is excluded in the interest of justice. I find that this exclusion outweighs the best interest of the defendant and the public is a speedy trial. So Ordered.

SO ORDERED:

AUG 27 2008


HON. PAULA A. CROTTY
UNITED STATES DISTRICT JUDGE

Part I